

Bruce D. Johnson (BJ0375)  
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Attorney for Plaintiff Applied Technology and Counterclaim Defendants Fetter & Henderson (Pty) Ltd. and John Fetter

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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APPLIED TECHNOLOGY LIMITED,

07 CV 6620 (LTS)

Plaintiff,

- against -

WATERMASTER OF AMERICA, INC.,

Defendant.

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WATERMASTER OF AMERICA, INC.

Counter-Plaintiff,

- against -

APPLIED TECHNOLOGY LIMITED, JOHN  
FETTER, and FETTER & HENDERSON LTD

Counter-Defendants.

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**REPLY TO COUNTERCLAIMS AGAINST  
COUNTERCLAIM DEFENDANT FETTER & HENDERSON (PTY) LTD.**

Counterclaim Defendant, Fetter & Henderson (Pty) Ltd. ("Fetter & Henderson (Pty) Ltd."), by its attorneys, Johnson & Associates, replies to the Counterclaims of Defendant Watermaster of America, Inc. as follows:

1. Admits the allegations set forth in paragraph numbered “40” of the Counterclaims.

2. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “41” of the Counterclaims, except admits, upon information and belief, that Plaintiff is a corporation formed and licensed to do business in the Bailiwick of Jersey, a British Crown dependency, with its offices located in Jersey, the Channel Islands and admits that Plaintiff pays Fetter & Henderson (Pty) Ltd. for products that it purchases from Fetter & Henderson (Pty) Ltd.

3. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “42” of the Counterclaims, except admits that Fetter & Henderson (Pty) Ltd. is a privately held company registered to do business under the laws of the Republic of South Africa, with its offices located in Johannesburg, South Africa, and that John Fetter is a director, officer and shareholder of Fetter & Henderson (Pty) Ltd.

4. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “43” of the Counterclaims, except admits that that John Fetter is a director, officer and shareholder of Fetter & Henderson (Pty) Ltd., that John Fetter receives compensation from Fetter & Henderson (Pty) Ltd., and that Plaintiff pays Fetter & Henderson (Pty) Ltd. for products that it purchases from Fetter & Henderson (Pty) Ltd..

5. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “44” of the Counterclaims and denies knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph numbered “44” of the Counterclaims.

6. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth in paragraph numbered "45" of the Counterclaims.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered "46" of the Counterclaims, except admits that Plaintiff sold certain products to Defendant, as set forth in the Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered "47" of the Counterclaims.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered "48" of the Counterclaims, except admits that Fetter & Henderson (Pty) Ltd. manufactured certain products that Plaintiff sold to Defendant, that Fetter & Henderson (Pty) Ltd. shipped those products from the Republic of South Africa to Defendant in New York at the request of Plaintiff, and that those products were manufactured in the Republic of South Africa.

10. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered "49" of the Counterclaims.

11. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered "50" of the Counterclaims, except admits that, since in or about 1986, Plaintiff has issued invoices to Defendant and admits that invoices from Plaintiff to Defendant have been issued to Defendant at Plaintiff's request and direction by Fetter & Henderson (Pty) Ltd. from the Republic of South Africa in order to expedite delivery of the products that Plaintiff has sold to Defendant.

12. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered "51" of the Counterclaims, except admits that, at Plaintiff's request and direction, Fetter & Henderson (Pty) Ltd. shipped certain products that Plaintiff purchased from

Fetter & Henderson (Pty) Ltd. from the Republic of South Africa to Defendant in New York.

13. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “52” of the Counterclaims.

14. Counterclaim Defendant Fetter & Henderson (Pty) Ltd. incorporates by reference each and every allegation set forth in paragraphs numbered “1” through “13,” above, as though more fully set forth at length herein.

15. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “54” of the Counterclaims.

16. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “55” of the Counterclaims.

17. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “56” of the Counterclaims.

18. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “57” of the Counterclaims.

19. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “58” of the Counterclaims.

20. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “59” of the Counterclaims.

21. Counterclaim Defendant Fetter & Henderson (Pty) Ltd. incorporates by reference each and every allegation set forth in paragraphs numbered “1” through “20,” above, as though more fully set forth at length herein.

22. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “61” of the Counterclaims.

23. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “62” of the Counterclaims.

24. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “63” of the Counterclaims.

25. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “64” of the Counterclaims.

26. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “65” of the Counterclaims.

27. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “66” of the Counterclaims.

28. Counterclaim Defendant Fetter & Henderson (Pty) Ltd. incorporates by reference each and every allegation set forth in paragraphs numbered “1” through “27,” above, as though more fully set forth at length herein.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered “68” of the Counterclaims.

30. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “69” of the Counterclaims.

31. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “70” of the Counterclaims.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered “71” of the Counterclaims.

33. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “72” of the Counterclaims.

34. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “73” of the Counterclaims.

35. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “74” of the Counterclaims.

36. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “75” of the Counterclaims.

37. Counterclaim Defendant Fetter & Henderson (Pty) Ltd. incorporates by reference each and every allegation set forth in paragraphs numbered “1” through “36,” above, as though more fully set forth at length herein.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered “77” of the Counterclaims, denies that Counterclaim Defendant John Fetter had authority to publish defamatory statements on behalf of Fetter & Henderson (Pty) Ltd., and avers that Defendant has failed and refused to pay amounts that it owes to Plaintiff, without legal excuse or justification.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph numbered “78” of the Counterclaims, avers that Defendant has failed and refused to pay amounts that it owes to Plaintiff, without legal excuse or justification, and avers that “Watermaster’s owner” is not a party to the instant action.

40. Denies each and every allegation against Fetter & Henderson (Pty) Ltd. set forth in paragraph numbered “79” of the Counterclaims and avers that “Watermaster’s owner” is not a party to the instant action.

#### **AFFIRMATIVE DEFENSES**

41. The Counterclaims fail to state a cause of action against Fetter & Henderson (Pty)

Ltd. upon which relief may be granted.

42. All of the claims in the Counterclaims against Fetter & Henderson (Pty) Ltd. are barred by the doctrines of waiver and estoppel.

43. Fetter & Henderson (Pty) Ltd. pleads truth as an absolute defense to the allegations of defamation in the Fourth Counterclaim.

**WHEREFORE**, Counterclaim Defendant, Fetter & Henderson (Pty) Ltd., prays for judgment against Defendant, Watermaster of America, Inc., dismissing the Counterclaims against it with prejudice and for such other and further relief as may be just and proper.

Dated: New York, New York  
September 13, 2007



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Bruce D. Johnson (BJ0375)

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 13<sup>th</sup> day of September, 2007, I electronically filed the foregoing Counterclaim Defendant Fetter & Henderson (Pty) Ltd.'s Reply to Counterclaims with the Clerk of the United States District Court, Southern District of New York, using the CM/ECF system and that a true copy of the foregoing Counterclaim Defendant Fetter & Henderson (Pty) Ltd.'s Reply to Counterclaims was mailed this 13<sup>th</sup> day of September, 2007, by first class United States mail, to the following counsel of record:

William R. Hansen, Esq.  
Lathrop & Gage, L.C.  
230 Park Avenue, Suite 1847  
New York, New York 10169

  
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